



STATE OF MAINE
DEPARTMENT OF HUMAN SERVICES
11 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0011

JOHN ELIAS BALDACCI
GOVERNOR

PETER WALSH
ACTING COMMISSIONER

Memorandum

To: Maine Medical Providers

From: Kathleen F. Gensheimer, MD, MPH, State Epidemiologist
Maine Department of Human Services, Bureau of Health, Division of Disease Control

Date: April 16, 2003

Re: HIPAA Privacy Rule Update: Public Health Disease Reporting, Outbreak Investigation and Finding Infectious Disease Contacts

Due to the recent April 14th, 2003 deadline for implementation of the HIPAA Privacy Rule, the Maine Department of Human Services, Bureau of Health, Division of Disease Control (DDC) is clarifying the exemptions provided for public health functions under HIPAA restrictions on disclosure of Protected Health Information (PHI). It is important to emphasize the DDC's classic public health functions that are not "covered" by the HIPAA Privacy Rule: those of reportable disease surveillance and preventive follow-up; outbreak investigations; preventive outreach education and appropriate preventive follow-up services for contacts of communicable diseases.

As stated in 45 CFR 164.512 (b)(1)(i), "The [HIPAA] Privacy Rule permits covered entities to disclose protected health information, without authorization, to public health authorities who are legally authorized to receive such reports for the purpose of preventing or controlling disease, injury, or disability. This would include, for example, the reporting of a disease or injury; reporting vital events, such as births and deaths; and conducting public health surveillance, investigations, or interventions."

The DDC is legally authorized to receive reports by Maine Statute (22 MSRA, Chapter 250 Control of Communicable Diseases, Sections 801-825) and Maine Rules (Rules for Control of Notifiable Conditions 10-144 C.M.R. Ch. 258) requiring all medical providers to continue to report, and to cooperate with "public health investigations and interventions." That includes providing supporting information such as relevant laboratory tests. To quote from the HIPAA Privacy Rule, "Effects on State Law" section (42USC § 1320 (d) (7) (b) PUBLIC HEALTH): "Nothing in this part shall be construed to invalidate or limit the authority, power, or procedures established under any law

providing for the reporting of disease or injury, child abuse, birth, or death, public health surveillance, or public health investigation or intervention.”

Be aware that health care workers who provide names of persons to public health authorities to carry out these above functions are still protected from lawsuit under Maine statute 22 M.R.S.A § 1711-C (6) that “allows a health care practitioner or health care facility to disclose confidential health information as follows: (1) to federal, state or local government entities in order to protect the public health and welfare when reporting is required or authorized by law.”

When concern exists concerning a potential public health problem in the community, our regional or central Epidemiologists contact health care providers to alert them to the fact that further epidemiological investigation and interview of patients diagnosed with a notifiable disease or condition is deemed necessary. This contact is done in an attempt to enhance collaborative working relationships with the private medical community. Hopefully this memo addresses staff concerns related to releasing confidential patient information under the new HIPAA Privacy Rules. Be assured that our interest and concern are directly related to public health surveillance and intervention. If you have any questions you may contact us at 1-800-821-5821. Thank you for continued assistance in promoting public health surveillance activities.